

APPEAL NO. 030281  
FILED MARCH 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 17, 2002. With respect to the single issue before her, the hearing officer determined that respondent 2's (claimant) compensable injury of \_\_\_\_\_, does not extend to and include the head, cervical spine, thoracic spine, or right wrist. In his appeal, the appellant (subclaimant), the claimant's treating doctor, argues that the hearing officer's extent-of-injury determination is against the great weight of the evidence. In addition, the subclaimant asserts error in the hearing officer's admission of respondent 1's (carrier) Exhibit No. 8. In its response to the subclaimant's appeal, the carrier urges affirmance. The claimant did not respond to the subclaimant's appeal and also did not file his own appeal of the adverse extent-of-injury determination.

DECISION

Affirmed.

Initially, we consider the subclaimant's assertion that the hearing officer erred in admitting the subclaimant's billing record (Carrier's Exhibit No. 8) in evidence over the subclaimant's relevance objection. In order to obtain a reversal for the admission of evidence, the carrier must demonstrate that the evidence was actually erroneously admitted and that "the error was reasonably calculated to cause and probably did cause rendition of an improper judgment." Hernandez v. Hernandez, 611 S.W.2d 732, 737 (Tex. Civ. App.-San Antonio 1981, no writ). It has also been held that reversible error is not ordinarily shown in connection with rulings on questions of evidence unless the whole case turns on the particular evidence admitted or excluded. Atlantic Mut. Ins. Co. v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). In this instance, the subclaimant has wholly failed to demonstrate how the admission of his billing records constituted reversible error under the standards of Hernandez and Middleman. Accordingly, we find no merit in the challenge to the hearing officer's evidentiary ruling.

The hearing officer did not err in determining that the claimant's compensable injury of \_\_\_\_\_, does not extend to or include the head, cervical spine, thoracic spine, or right wrist. That issue presented a question of fact for the hearing officer to resolve. From the hearing officer's discussion, it is apparent that she was not persuaded that the claimant sustained his burden of proving that his compensable injury caused damage or harm to the physical structure of the body parts at issue. The hearing officer was acting within her province as the fact finder in so finding. Our review of the record does not reveal that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN RISK FUNDING INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Roy L. Warren  
Appeals Judge